

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

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MALANJE PHEA,  
  
Petitioner,  
  
v.  
  
CHRISTIAN PFEIFFER, Warden,  
  
Respondent.

No. 2:20-cv-00283 WBS GGH P

ORDER

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Petitioner has filed an application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On February 17, 2021, the magistrate judge filed findings and recommendations recommending dismissing petitioner's habeas petition. (Docket No. 52.) Petitioner filed objections to the February 17, 2021 findings and recommendations. (Docket Nos. 55, 58.) Petitioner then filed a "Timely Notice of Appeal

1 and Request for a Certificate of Appealability".<sup>1</sup> (Docket No.  
2 59).

3 Before the initial Notice of Appeal was filed, on March  
4 12, 2021, the magistrate judge filed findings and recommendations  
5 recommending denying petitioner's motion to stay. (Docket No.  
6 63.) Neither party filed objections to the March 12, 2021  
7 findings and recommendations. Petitioner the filed a second  
8 "Timely Notice of Appeal and Request for a Certificate of  
9 Appealability", which appears substantially similar to the prior  
10 Notice of Appeal. (Docket No. 65.)

11 While it is unclear what exactly the petitioner is  
12 appealing, it appears that he is challenging the magistrate  
13 judge's February 17, 2021 findings and recommendations  
14 recommending that his petition be denied, and seeks Ninth Circuit  
15 review of those findings and recommendations, separate from his  
16 objections that he previously filed. Given the timing of the  
17 second notice of appeal, he may also be appealing the  
18 recommendation that his request to stay be denied.

19 "The filing of a notice of appeal is an event of  
20 jurisdictional significance--it confers jurisdiction on the court  
21 of appeals and divests the district court of its control over  
22 those aspects of the case involved in the appeal." Griggs v.  
23 Provident Consumer Disc. Co., 459 U.S. 56, 58 (1982). Given  
24 petitioner's appeal, this court has been divested of its  
25 jurisdiction to review both the February 17, 2021 findings and  
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27 <sup>1</sup> The court expresses no opinion as to whether the Notice  
28 of Appeal was in fact "timely", but states the full name of the  
petitioner's filing as listed in the caption of the document.

1 recommendations and the March 12, 2021 findings and  
2 recommendations. Accordingly, the court declines to address the  
3 pending findings and recommendations at this time, and all  
4 proceedings are hereby STAYED pending resolution of the appeal.

5 IT IS SO ORDERED.

6 Dated: April 15, 2021



7 WILLIAM B. SHUBB  
8 UNITED STATES DISTRICT JUDGE  
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